

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

**DANIEL T. SMITH and
SAMANTHA ANDERSON,**

Plaintiffs,

vs.

EVERALBUM, INC.,

Defendant.

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Case no. 4:17cv00400 PLC

ORDER OF DISMISSAL

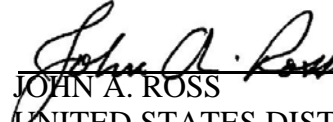
This matter is before the Court on a notice of dismissal with prejudice [ECF No. 5] filed by Plaintiffs Daniel T. Smith and Samantha Anderson. Plaintiffs seek dismissal with prejudice, “with all parties to bear their own costs.”

On February 2, 2017, Plaintiffs filed their class action complaint requesting relief for alleged violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.*. The docket sheet reflects that Defendant Everalbum, Inc. was served on February 13, 2017. See Return of Service of Summons, filed Feb. 17, 2017 [ECF No. 4]. Defendant has not filed either an answer or a motion for summary judgment. No discovery or other pretrial proceedings, including certification of a plaintiff class, occurred before Plaintiffs filed their dismissal notice.

The Court finds Plaintiffs’ proposed dismissal with prejudice under 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure will not result in either a waste of judicial time and effort or prejudice to Defendant. See, e.g., Thatcher v. Hanover Ins. Group, 659 F.3d 1212 (8th Cir. 2011). Accordingly, after careful consideration,

IT IS HEREBY ORDERED that Plaintiffs’ notice of dismissal with prejudice [ECF No. 5] is **GRANTED**.

IT IS FINALLY ORDERED that Plaintiffs' claim and cause of action against Defendant is **DISMISSED with prejudice**, with all parties to bear their own costs.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE

Dated this 3rd day of March, 2017.